

MONTANA LEGISLATIVE HISTORY

Chapter 344 1993

Bill H _____ S 238

Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) _____ c

3/11 ✓ c

_____ c

_____ c

Date Out 3/16 ✓ c

S. Committee on Judiciary

Hearing Date(s) _____ c

2/1 ✓ c

_____ c

2/4 ✓ c

Did this bill originate in an interim committee? _____ Yes ✓ No

Committee _____

Report _____

SENATE BILL NO. 238

INTRODUCED BY CRIPPEN

IN THE SENATE

JANUARY 22, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

FEBRUARY 4, 1993

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 5, 1993

PRINTING REPORT.

FEBRUARY 6, 1993

SECOND READING, DO PASS.

FEBRUARY 8, 1993

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 50; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 9, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

MARCH 17, 1993

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 27, 1993

SECOND READING, CONCURRED IN.

MARCH 30, 1993

THIRD READING, CONCURRED IN.
AYES, 93; NOES, 7.

MARCH 31, 1993

RETURNED TO SENATE.

IN THE SENATE

MARCH 31, 1993

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 238

2 INTRODUCED BY Cym

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CERTAIN
5 WARRANT AND BOND REQUIREMENTS FOR OBTAINING POSSIBLE STOLEN
6 PROPERTY FROM A PAWNBROKER OR DEALER; AMENDING SECTION
7 46-5-212, MCA; AND REPEALING SECTIONS 31-1-403, 31-1-404,
8 31-1-405, AND 31-1-406, MCA."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 46-5-212, MCA, is amended to read:

12 "46-5-212. Pawnbroker to surrender stolen property.

13 When a peace officer informs a pawnbroker or dealer who buys
14 and sells secondhand merchandise that property pawned to him
15 or purchased by him the pawnbroker or dealer is stolen
16 property, as defined in 45-2-101, the pawnbroker or dealer
17 who buys and sells secondhand merchandise shall hold the
18 property for 30 days and shall surrender the property to the
19 peace officer ~~upon--service-of-a-search-warrant-by-a-peace~~
20 ~~officer-pursuant-to-31-1-401--through--31-1-406.~~ The peace
21 officer shall give the pawnbroker or dealer a receipt for
22 any property surrendered by the pawnbroker or dealer."

23 NEW SECTION. **Section 2. Repealer.** Sections 31-1-403,
24 31-1-404, 31-1-405, and 31-1-406, MCA, are repealed.

-End-

COMMITTEE--SENATE JUDICIARY

Page 9

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

SB0153	DOHERTY, STEVE	REVISE REQUIRED AUTO LIABILITY INSURANCE REQUIREMENTS AND PENALTIES	1/14	1/19	1/25	PASS AS AMENDED	2-6	2/06
SB0173	BARTLETT, SUE	PROCEDURE FOR ALTERNATE RETIREMENT BENEFIT PAYEE UNDER FAMILY LAW ORDER	1/16	2/02		PASS AS AMENDED	2-2	2/04
SB0179	CHRISTIAENS, CHRIS	ALLOW PRIVATE FOR-PROFIT CORPORATIONS TO CONTRACT FOR PRERELEASE CENTERS	1/18	2/04	2/04	PASS AS AMENDED	2-10	2/15
SB0193	WATERMAN, MIGNON	CHANGE OFFENDER PAYMENT RESPONSIBILITIES FOR COMMUNITY CORRECTIONS	1/19	2/04		DO PASS	2-4	2/04
SB0194	WATERMAN, MIGNON	CHANGE PRERELEASE RESIDENT OBLIGATION AND PROVIDE METHOD TO DETERMINE RATES	1/19	2/04		DO PASS	2-4	2/04
SB0202	HARDING, ETHEL	CLARIFYING A WOMAN'S RIGHT TO KNOW CERTAIN FACTS PRIOR TO ABORTION	1/19	2/03		PASS AS AMENDED	2-17	2/22
SB0210	NATHE, DENNIS	RAISE LIVE KENO AND BINGO AND POKER MACHINE MAXIMUM PRIZE TO \$800	1/20	2/11		TABLED ON	02/16	
SB0217	GROSFIELD, LORENTS	SUSPEND PROF. AND OCCUPATIONAL LICENSES FOR FAILURE TO PAY CHILD SUPPORT	1/20	2/12		PASS AS AMENDED	2-16	2/16
SB0224	JACOBSON, JUDY	PROVIDE IMMUNITY FROM LIABILITY FOR FIREARM SAFETY INSTRUCTORS	1/20	2/02		TABLED ON	02/09	
SB0229	STANG, BARRY	AUTHORIZE POKER RUNS AND EXEMPT NONPROFITS FROM CERTAIN REGS	1/21	1/28		PASS AS AMENDED	2-4	2/04
SB0236	YELLOWTAIL, BILL	INCLUDE SEXUAL ORIENTATION IN MALICIOUS HARASSMENT LAWS	1/22	1/26		DO PASS	1-27	1/27
SB0238	CRIPPEN, BRUCE	ELIMINATE WARRANT & BOND TO OBTAIN POSSIBLE STOLEN PROPERTY FROM PAWNBROKER	1/22	2/01		PASS AS AMENDED	2-4	2/04

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on February 1, 1993,
at 10:10 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: Senator Doherty

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 238
SB 119
Executive Action: NONE

HEARING ON SB 238

Opening Statement by Sponsor:

Senator Crippen, District 45, told the Committee SB 238 would eliminate certain bond requirements for obtaining possible stolen property from a pawnbroker or a dealer, and would repeal a number of sections. Senator Crippen said the legislature created a situation requiring a victim, in order to obtain stolen property, to go through certain procedures. If a victim wants to get back property from a pawnbroker, that was allegedly stolen, the victim has to put up a cash bond double the amount of the property. Senator Crippen said that puts a hardship on the victim.

Proponents' Testimony:

Bill Pleiner, Montana Sheriffs and Peace Officers Association, said the existing statute was requested on behalf of pawnbrokers in the 1989 session. The intent of that law was to protect pawnbrokers from discriminatory unethical activities on behalf of law enforcement. The security bond was requested to protect pawnbrokers against misrepresentation of property by the complainant. Mr. Pleiner said the Montana Sheriffs and Peace Officers Association is requesting a repeal of the statutes dealing with the search warrant and the security bond. Mr. Pleiner urged support for SB 238.

Detective Robert Hetchel, Yellowstone County Sheriffs Department, represents a large number of investigators that deal with the existing statute. The majority of cases deal with stolen property, either theft or burglary. Since the passage of the statute, victims have been incensed about having to post a security bond to get their property back. Detective Hetchel said the current laws penalize crime victims.

Val Highland-Jones told the Committee she was a victim of a burglary. Ms. Highland-Jones told the Committee what she had to go through in order to get her property back. Ms. Highland-Jones urges support of SB 238.

Opponents' Testimony:

NONE

Questions From Committee Members and Responses:

Senator Grosfield asked Senator Crippen about holding the property for 30 days. Senator Crippen said the pawnbroker would hold the property for 30 days after being informed by a peace officer that the property was stolen. Senator Crippen said if the property was sold before the 30 days, there would be no evidence, which was a problem. Senator Crippen said SB 238 would still protect the pawnbroker, but would also protect those people who were victimized.

Senator Grosfield asked Senator Crippen if property could be surrendered before the 30 days waiting period. Senator Crippen referred the question to Mr. Pleiner.

Mr. Pleiner said pawnbrokers could hold the property for 30 days before surrendering it to a peace officer. Mr. Pleiner said most pawnbrokers are willing to turn over stolen property to a peace officer upon receipt of that property. However, if a pawnbroker wanted to hold the property for 30 days he could.

Senator Towe asked Mr. Pleiner if the pawnbrokers would feel they were required to hold the property for 30 days because of the language proposed in SB 238. Mr. Pleiner told the Committee

under the current statute, pawnbrokers could hold the property for 30 days.

Senator Towe asked Mr. Pleiner if he would have an objection to requiring pawnbrokers to hold property for 30 days unless a request was made by a peace officer to surrender the property. Mr. Pleiner said no.

Closing by Sponsor:

Senator Crippen told the Committee SB 238 would still protect the pawnbrokers, but would shift the emphasis of protection to the victims.

HEARING ON SB 119

Opening Statement by Sponsor:

Senator Halligan, District 29, opened.

Proponents' Testimony:

Professor Edwin Eck, University of Montana School of Law, summarized his prepared testimony. (Exhibit #1)
Professor Eck submitted a letter from Ada Harlen. (Exhibit #2)
Professor Eck submitted a copy of Article VI (Exhibit #3),
Article II (Exhibit #4), 1991 Uniform Probate Code (Exhibit #5),
Uniform Statutory Form Power of Attorney Act (Exhibit #6).

Richard Baskett, an attorney in Missoula, explained the revisions in SB 119. The first area of revision deals with the changes in society concerning multiple marriages and how property would be distributed in those instances. The second area of change deals with the distribution of property. The substantive change in the provision would eliminate the definition of who would be the next of kin. The third area of revisions makes changes that reflect a preference as to how a property would be distributed, based on studies done by the American College of Probate Council. Section 13 of the act deals with the definition of representation. The study found per capital representation to be the most preferred type of representation.

Kristen Juras, Montana State Bar, said the Uniform Probate Code greatly simplifies the probate process and reduces cost and attorney fees for people who have to go through the probate process. Ms. Juras told the Committee about the elective share provision. Ms. Juras explained the longer a couple is married, the more money a person would receive upon the death of their spouse.

Dan McLane, attorney in Billings, told the Committee about the new Article VI provision. Mr. McLane said SB 119 eliminates the problem of creating property rights. This legislation makes it possible for a person to open an account and name someone as a

ROLL CALL

SENATE COMMITTEE

Judiciary

DATE 2-1-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty			X
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

DATE Feb 1, 1993

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 119 Halligan
S.B 238 Crippen

Name	Representing	Bill No.	Check One Support Oppose	
E. Edw. - Ed	Uglen Tzen	119	✓	
PATRICK DOUGHERTY	MT STATE BAR	119	✓	
Kristen Juras	MT State Bar	119	✓	
Richard M. Bessett	SELF	119	✓	
Ree Childs	MTPS	153	✓	
John R Voeller	U of M	119	✓	
Bob Pyser	MT Credit Union League	119	✓	
Bruce A. MacKenzie	Securities Industry Assoc DRIECO	119	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Vote:

Motion tied. Senators Bartlett, Halligan, Doherty, Franklin, Yellowtail, Blaylock voting NO. Senators Harp, Brown, Grosfield, Towe, Rye, Crippen voting YES.

EXECUTIVE ACTION ON SB 229

Discussion:

Valencia Lane told the Committee Senator Towe and Senator Yellowtail requested the amendments. Valencia Lane explained the amendments (Exhibit #1)

Motion/Vote:

Senator Towe moved to AMEND SB 229. Motion to amend SB 229 CARRIED UNANIMOUSLY.

Motion:

Senator Towe moved SB 229 DO PASS AS AMENDED.

Discussion:

Senator Grosfield asked Valencia Lane about the amendment proposed by Senator Stang. Valencia Lane said Senator Stang's amendment was incorporated into the new amendments.

Vote:

Motion carried to AMEND SB 229. Senator Crippen voting NO.

EXECUTIVE ACTION ON SB 238

Discussion:

Senator Crippen explained the amendment. (Exhibit #2)

Motion/Vote:

Senator Crippen moved to amend SB 238. CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Crippen moved SB 238 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 153

ROLL CALL

SENATE COMMITTEE Judiciary DATE 2-4-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail			X
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin			X
Senator Blaylock			X
Senator Rye	X		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 4, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 238 (first reading copy -- white), respectfully report that Senate Bill No. 238 be amended as follows and as so amended do pass.

Signed: Steve DeLoach
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Page 1, line 18.

Following: "days"

Insert: "unless demanded by a peace officer"

Following: "and"

Insert: ", upon demand,"

-END-

Amendments to Senate Bill No. 238
First Reading Copy

Requested by Senator Towe and Grosfield
For the Committee on Judiciary

Prepared by Valencia Lane
February 1, 1993

1. Page 1, line 18.

Following: "days"

Insert: "unless demanded by a peace officer"

Following: "and"

Insert: ", upon demand,"

SENATE JUDICIARY
EXHIBIT NO. 2
DATE 2-4-93
BILL NO. SB238

COMMITTEE--HOUSE JUDICIARY

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BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ---- DATE READ

SB0179	CHRISTIAENS, CHRIS	2/23	3/17	ALLOW PRIVATE FOR-PROFIT CORPORATIONS TO CONTRACT FOR PRERELEASE CENTERS	Tie	VOTE: 9-9	
SB0193	WATERMAN, MIGNON	2/09	3/04	CHANGE OFFENDER PAYMENT RESPONSIBILITIES FOR COMMUNITY CORRECTIONS	CONCUR	3/5	VOTE: 17-1 3/06
SB0194	WATERMAN, MIGNON	2/10	3/04	CHANGE PRERELEASE RESIDENT OBLIGATION AND PROVIDE METHOD TO DETERMINE RATES	CONCUR AS AMENDED	3/5	VOTE: 17-1 3/08
SB0202	HARDING, ETHEL	3/01		CLARIFYING A WOMAN'S RIGHT TO KNOW CERTAIN FACTS PRIOR TO ABORTION	TABLED ON	03/05	VOTE: 15-3
SB0217	GROSFIELD, LORENTS	2/23	3/23	SUSPEND PROF. AND OCCUPATIONAL LICENSES FOR FAILURE TO PAY CHILD SUPPORT	CONCUR AS AMENDED	3/24	VOTE: 17-1 3/25
SB0229	STANG, BARRY	2/10	3/11	AUTHORIZE POKER RUNS AND EXEMPT NONPROFITS FROM CERTAIN REGS	CONCUR	3/16	VOTE: 18-0 3/17
SB0238	CRIPPEN, BRUCE	2/09	3/11	ELIMINATE WARRANT & BOND TO OBTAIN POSSIBLE STOLEN PROPERTY FROM PAWNBROKER	CONCUR	3/16	VOTE: 18-0 3/17
SB0242	BURNETT, JIM	2/23	3/16	CONST. AMEND. TO EXPAND JUDICIAL VIOLATIONS AND CONTROL OVER THE JUDICIARY	TABLED ON	03/25	VOTE: 15-3
SB0251	TOWE, TOM	2/10	3/12	CLARIFY CITY COURT JURISDICTION	CONCUR AS AMENDED	3/16	VOTE: 18-0 3/17
SB0252	HERTEL, JOHN	2/23	3/23	EXEMPT PROFESSIONAL LAND SURVEYORS FROM CRIMINAL TRESPASS LAW	CONCUR	3/23	VOTE: 17-1 3/23
SB0260	BARTLETT, SUE	2/23	3/23	CLARIFY STATUTE OF LIMITATIONS IN PATERNITY ACTION	CONCUR	3/25	VOTE: 17-1 3/25
SB0264	VAN VALKENBURG, FRED	2/23	3/17	ABOLISH CERTAIN NOTIFICATIONS OF RELEASES FROM CONFINEMENT	CONCUR AS AMENDED	3/18	VOTE: 18-0 3/19

lost property in Missoula. There is a huge inventory of lost bicycles in Missoula, for example, and the success rate for returning the bicycles is very good. The city holds the bikes for 60 days; if they are not claimed, they are auctioned off.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. TASH asked if these procedures apply to all lost properties. SEN. VAN VALKENBURG said it applies to any property for which someone cannot identify the owner.

Closing by Sponsor: None

HEARING ON SB 238

Opening Statement by Sponsor:

SEN. BRUCE CRIPPEN, Senate District 45, Billings, said that SB 238 would modify existing laws pertaining to warrant and bond requirements for obtaining possible stolen property from a pawnbroker or dealer. SEN. CRIPPEN referred to the new section of the bill which states that a peace officer shall give the pawnbroker or dealer a receipt for any property surrendered by the pawnbroker or dealer.

Proponents' Testimony:

Tom Harrison, Montana Sheriffs and Peace Officers Association (MSPOA), said that MSPOA supports SB 238.

REP. RANDY VOGEL, House District 86, Billings, stated that SB 238 will help recover stolen property from pawnshops.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: None.

EXECUTIVE ACTION ON SB 15

Motion: REP. WYATT MOVED SB 15 BE CONCURRED IN.

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

3-11-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

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CS-09

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary

COMMITTEE

BILL NO.

SB 238

DATE

March 11, 1993

SPONSOR(S)

B. Crispin

B. Crispin

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Tom Hannon</i>	<i>Mt. Sherriffs + Peace Officers</i>		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXECUTIVE ACTION ON SB 238

Motion/Vote: REP. WHALEN MOVED SB 238 BE CONCURRED IN. Motion carried unanimously 18-0. REP. VOGEL will carry the bill on the House floor.

EXECUTIVE ACTION ON SB 124

Motion: REP. WYATT MOVED SB 124 BE CONCURRED IN. Motion carried unanimously 18-0. REP. TOOLE will carry the bill on the House floor. Bill scheduled for the consent calendar.

EXECUTIVE ACTION ON SB 251

Motion: REP. SAYLES MOVED SB 251 BE CONCURRED IN.

Discussion:

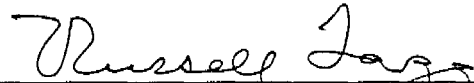
Motion: REP. TASH moved an amendment to strike the effective date upon SEN. TOWE's request. See Standing Committee Report.

Vote: The question was called on REP. TASH's amendment. Motion carried unanimously 18-0.

Vote: REP. TOOLE MOVED THAT SB 251 BE CONCURRED IN AS AMENDED. Motion carried unanimously 18-0. REP. TOOLE will carry the bill on the House floor.

ADJOURNMENT

Adjournment: 12:30 p.m.



REP. RUSSELL FAGG, Chairman



BETH MIKSCHKE, Secretary

RF/bcm

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

3-16-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird			✓
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

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CS-09

HOUSE STANDING COMMITTEE REPORT

March 16, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 238 (third reading copy -- blue) be concurred in .

Signed: Russ Fagg

Russ Fagg, Chair

Carried by: Rep. Vogel

Committee Vote:
Yes 15, No 0.

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